

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

KRISTIN MARIE SMITH,)
And LLOYD SMITH,)
)
)
Plaintiffs,)
) Cause No. 2:16-CV-24
v.)
) JURY TRIAL DEMANDED
TOYOTA MOTOR CORPORATION and)
TOYOTA MOTOR SALES, U.S.A., INC.,)
)
Defendants.)

AGREED MOTION TO AMEND CASE MANAGEMENT ORDER

COME NOW Plaintiffs Kristin Marie Smith and Lloyd Smith and Defendants Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc., and file this Agreed Motion to Amend Case Management Order. The parties would respectfully show the Court the following:

1. This matter is currently governed by a Case Management Order – Track 2: Standard, dated August 12, 2016 (Doc. 24). At the April 7, 2017 discovery hearing, counsel informed the Court that ongoing discovery activities and motion practice would likely require some modification to the existing schedule and trial date, and the Court indicated it would permit the parties time to cooperatively complete necessary discovery and trial preparation.

2. Following the Court's entry of its April 21, 2017 Memorandum and Order regarding the appropriate scope of discovery, the parties have conferred in detail about timing for the remaining discovery to be conducted prior to trial. Based on these discussions, the parties have determined that at least two Toyota corporate representatives from Japan will be required to address the relevant topics raised by Plaintiffs' deposition notices as ruled on following the hearing. These representatives are automotive design engineers at TMC. Due to the timing of

the year and the release of new model year 2018 vehicles, TMC design engineers have significant commitments over the next several months, including responsibilities associated with final certification of compliance tests that have to be conducted before August. Accordingly, the parties are working together to schedule the depositions of these two corporate representatives in September 2017 in Dallas, Texas. Although the timing is not ideal, counsel for both parties have extensive experience together and realize this is the best option under the circumstances.

3. Once corporate discovery has been completed, the parties would thereafter need to conduct depositions of Plaintiffs' experts—likely in October to November—followed by depositions of Defendants' experts—likely in November to December. Once those depositions have been completed, the parties could move directly into necessary pretrial submissions, allowing the case to be ready for trial thereafter.

4. The parties therefore jointly request that the Court amend the existing Case Management Order (Doc. 24) as follows: (1) change the discovery deadline to December 22, 2017; (2) change the date by which Plaintiffs' and Defendants' experts must be presented for deposition to December 22, 2017; (3) change the deadline for any motion to dismiss, motion for summary judgment, or motion for judgment on the pleadings, and any motion pursuant to Daubert v. Merrill Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) to January 5, 2018 (with responses to such motions due twenty-one days later, and replies in support due seven days after the response); and (4) set a new trial date thereafter at the court's convenience.

5. This motion to amend the case management order is made to allow the parties to complete the necessary remaining discovery, within the parameters outlined in the Court's recent order setting forth the appropriate scope. Alternatively, the parties ask that the Court set this

case for a scheduling conference so that the parties and the Court may further discuss an appropriate schedule for the completion of discovery and the trial of this matter.

Respectfully submitted,

/S/ C. TAB TURNER

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on all counsel of record via the court's ECF system, this 31st day of May, 2017, to the following counsel of record:

/S/ DAVID P. STONE